UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

SHERMAN LAMONT WAGNER,

          Petitioner,

   v.   Case No. 2:17-cv-12814
                                   Hon. George Caram Steeh

ANTHONY STEWART,

          Respondent.
_____/

**OPINION AND ORDER DISMISSING PETITION FOR
A WRIT OF HABEAS CORPUS WITHOUT PREJUDICE
<u>AND DENYING A CERTIFICATE OF APPEALABILITY</u>**

Sherman Wagner filed a *pro se* petition for a writ of habeas corpus

pursuant to 28 U.S.C. § 2254. The petition challenges his Wayne Circuit

Court conviction for assault with intent to commit murder. Petitioner did not

pay the required filing fee when he filed his petition, nor did he submit an

application to proceed in forma pauperis. *See* 28 U.S.C. § 1914(a); 28

U.S.C. § 1915; Rule 3 of the Rules Governing § 2254 Cases. The issued

an Order to Correct Deficiency on August 28, 2017, requiring Petitioner to

either pay the filing fee or submit a properly completed in forma pauperis

application. The order provided that if Petitioner did not submit the fee or

requested information by September 18, 2017, his case could be dismissed.

The time for submitting the filing fee or required information has elapsed and Petitioner has failed to correct the deficiency. Accordingly, the Court **DISMISSES WITHOUT PREJUDICE** the petition for a writ of habeas corpus.

The Court also denies a certificate of appealability because the disposition of the case is not reasonably debatable. See 28 U.S.C. § 2253(c)(1)(a); Fed. R. App. P. 22(b).

If Petitioner still desires to pursue habeas relief in this Court he may submit a new habeas petition with payment of the filing fee or an in forma pauperis application.

IT IS SO ORDERED.

Dated: October 5, 2017

s/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on October 5, 2017, by electronic and/or ordinary mail and also on Sherman Lamont Wagner #345690, G. Robert Cotton Correctional Facility, 3500 N. Elm Road, Jackson, MI 49201.

s/Barbara Radke
Deputy Clerk